

Taxpayers incur no locally imposed occupation tax on the sale of the tangible personal property when the purchase order is accepted outside of this State and the order is filled from an inventory located out-of-State. See for example 86 Ill. Adm. Code 270.115 regarding the Home Rule Municipal Retailers' Occupation Tax. (This is a PLR).

June 20, 2002

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200 (which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>), is in response to your letter of May 2, 2002 and our telephone conversation on May 29, 2002. Review of your request for a Private Letter Ruling disclosed that all information described in paragraphs 1 through 8 of subsection (b) of the enclosed copy of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to AAA for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither AAA nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

In your letter, you have stated and made inquiry as follows:

AAA hereby requests that you issue a private letter ruling regarding the taxability of certain transactions that are described as follows. A customer places an order for computer equipment with an in-state office. The in-state office sends the order to an out-of-state office, where the order is accepted. The order is shipped from out-of-state to a customer's location in-state. After the equipment is delivered to the customer's location, a vendor provides various services that are associated with the equipment, such as installation and computer consulting. We are requesting that you identify what state taxes apply, and we are requesting that you identify which local tax applies to these transactions.

The tax period that is at issue is for current and future periods. There is no pending audit or litigation with the Department regarding this issue for any tax period.

To the best of our knowledge, the Department has not previously issued a private letter ruling on the same or a similar issue for us, and we have not previously submitted the same or a similar issue to the Department for a private letter ruling. However, the Department has informally indicated that no sales tax or local level tax is due, and it has informally recommended that we pay vendor's use tax on these transactions.

In our opinion, because we provide the additional services to the equipment and for the customers who purchase the equipment, the transaction may be subject to sales tax at our office location within the state of Illinois. Further, we believe that the transaction should not be subject to sales tax at each customer's location and should not be subject to use tax. We are not able to identify any authority that supports a contrary position.

Please send the letter ruling to my attention at the above address. Also, if you have questions or need to discuss any issues, please contact me. Thank you for your assistance.

DEPARTMENT'S RESPONSE:

We believe that AAA incurs no locally imposed occupation tax on the sale of the computer equipment because the purchase order is accepted outside of this State and the order is filled from an inventory located out-of-State. AAA is required to collect Illinois Use Tax at the rate of 6.25% on the purchase price of the computer equipment sold to the Illinois customers. Because the purchase order is accepted outside of this State and the order is filled from an inventory located out-of-State, no local Illinois occupation taxes will apply.

In our telephone conversation on May 29, 2002, you provided further information that any charges for the installation referenced in your letter are included in the purchase price of the computer equipment, and AAA is the entity that provides the installation of that computer equipment. In addition, you also informed us that the computer consulting is contracted for separately with AAA, and no tangible personal property is transferred to the customer as part of that computer consulting service.

No Illinois Use Tax is incurred on any tangible personal property used by AAA in the installation of the computer equipment because the charges for that tangible personal property are considered to be included in the selling price of the computer equipment. The separate contract for computer consulting services would not be subject to Illinois Retailers' Occupation Tax or Illinois Use Tax liability because no tangible personal property is transferred incident to the providing of that service. However, please note that if any tangible personal property is transferred incident to the providing of those computer consulting services, then AAA will be acting as a service provider under provisions of the Service Occupation Tax Act and may be subject to liability under that Act or the Use Tax Act. See 35 ILCS 115/1 et seq.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

I hope this information is helpful. If you have questions regarding this Private Letter Ruling you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.revenue.state.il.us or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
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TDC:msk